

Sessler differs from the present invention in that Sessler does not concomitant (or subsequent) administration of a "precursor" or ascorbic acid, as required by Claim 20, step (c).

Applicants respectfully submit that the Examiner's rejection of Claims 20 and 23 based on Sessler is inappropriate as discussed below. Sessler teaches a method of radiation therapy, which requires administering ionizing radiation in the proximity of the neoplasm or atheroma for the compound to be effective. The present invention is different from Sessler wherein the present invention does not require administering ionizing radiation. Sessler does not suggest that the compound would have been effective without any ionizing radiation nor does Sessler provide any guidance as to a way of substituting something for ionizing radiation. Applicants assert that the present rejection based on Sessler and in view of Lehninger is hence misplaced and removal of the present rejection is respectfully requested.

The Examiner combines the Sessler reference with Lehninger (Biochemistry, 2nd Edition, pages 641-642, Worth Publishers, 1975). It is the Examiner's position that Lehninger discloses the biosynthetic pathway of ascorbic acid, which requires molecular oxygen and water as integral agents in its biosynthesis. Applicants respectfully submit that the Examiner's assertion that biosynthesis of ascorbic acid is relevant to the invention at hand is misplaced. The present invention has nothing to do with the biosynthesis of ascorbic acid. The present invention relates to a method inducing oxidative stress in cells in a mammalian host bearing a tumor or other neoplastic tissue by administering a texaphyrin and ascorbate. The method of the present invention does not relate to biosynthesis of ascorbic acid in any manner.

Applicants respectfully submit that based on the above discussion rejection of Claims 20 and 23 under 35 U.S.C. § 103 as being unpatentable over Sessler (U.S. Patent No. 5,622,946) in view of Lehninger (Biochemistry, 2nd Edition, pages 641-642, Worth Publishers, 1975) is overcome. Reconsideration and removal of the instant rejection is respectfully requested.

Rejection of Claims 20, 21 and 23 under 35 U.S.C. § 103

The Examiner has rejected Claims 20, 21 and 23 under 35 U.S.C. § 103 as being unpatentable over Vogel (U.S. Patent No. 5,244,671). The Examiner has based his instant rejection on the disclosure by Vogel of the use of photoactivatable porphycenes and production of singlet oxygen following irradiation. Applicants respectfully assert that the Examiner's rejection based on Vogel is inappropriate.

Vogel clearly states that ascorbic acid is used as an anti-oxidant (col. 7, lines 30-33). Vogel does not suggest using ascorbic acid as an oxidant. Applicants' use of ascorbate in the present invention is to increase the production of the reactive oxygen species (see claim 20 (c)). In other words, unlike Vogel, ascorbate is used as an oxidant and not an anti-oxidant. Additionally, Vogel requires use of some form of irradiation while the present invention does not require any form of irradiation. Applicants respectfully submit that rejection of Claims 20, 21 and 23, under 35 U.S.C. § 103, as being unpatentable over Vogel (U.S. Patent No. 5,244,671) is improper. Applicants respectfully request reconsideration and removal of the instant rejection.

The Examiner has also rejected Claims 20, 21 and 23 under 35 U.S.C. § 103 as being unpatentable over Platzek (U.S. Patent No. 6,136,841). The Examiner has rejected the instant claims based on col. 7, line 57 in Platzek. Applicants respectfully submit that the basis of this rejection is inappropriate. Platzek clearly states that ascorbic acid is used as an "anti-oxidant" (see col.7, line 57). As discussed above, the present invention does not use ascorbate as an "anti-oxidant" but rather as an "oxidant". Platzek does not offer any suggestion for using ascorbate as an "oxidant." Applicants respectfully submit that the instant rejection of Claims 20, 21 and 23 based on Platzek is therefore inappropriate and should be removed. Reconsideration and removal of the instant rejection is respectfully requested.

REMARKS

Applicants believe that the present response is fully responsive to the office action issued by the Examiner in this case. Applicants request a two-month extension for filing this response. Should the Examiner determine otherwise, the Examiner is hereby authorized to

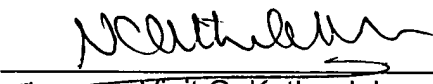
Application Serial No. 09/699,027  
Applicant: Jonathan L. Sessler et al.

Attorney Docket No. 4202.01US

deduct any additional fees, if necessary, or credit any overpayment, to the Applicant's Deposit Account No. 16-1450. Applicants respectfully request the Examiner to contact Applicants' undersigned Attorney should the Examiner have any questions.

Respectfully submitted,

Date: July 3, 2003

By:   
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Vinit G. Kathardekar  
Reg. No. 39,461

Pharmacyclics, Inc.  
995 E. Arques Avenue  
Sunnyvale, CA 94085-4521  
Tel: 408-990-7367  
Fax: 408-774-0340  
Email: Legal@pcyc.com